

June 3, 2021

# By Overnight Mail and Electronic Mail Confidential Business Information

Director, Air Enforcement Division U.S. Environmental Protection Agency MC 2242A, Room 2111C WJCS 1200 Pennsylvania Ave. NW Washington, DC 20004

Cheryl Seager
Director, Compliance Assurance and
Enforcement Division
U.S. Environmental Protection Agency,
Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270

Carol L. Kemker
Director, Enforcement and Compliance
Assurance Division
U.S. Environmental Protection Agency,
Region 4
61 Forsyth Street
Atlanta, GA 30303

Chief, Environmental Enforcement Section Environment and Natural Resources Division U.S. Department of Justice 4 Constitution Square 150 M Street NE, Suite 2.900 Washington, DC 20002 Re: DOJ No. 90-5-2-1-09729 Kendal Stegmann, Director Oklahoma Department of Environmental Quality Air Quality Division 707 North Robinson Oklahoma City, Oklahoma 73102

Madison Miller
Office of General Counsel
Oklahoma Department of Environmental
Quality
707 North Robinson
Oklahoma City, Oklahoma 73102

Ronald Gore Chief, Air Division Alabama Department of Environmental Management 1300 Coliseum Boulevard Montgomery, Alabama 36110

S. Shawn Sibley General Counsel Alabama Department of Environmental Management 1300 Coliseum Boulevard Montgomery, Alabama 36110

Re: Force Majeure Notification - Update Letter 12

### Ladies and Gentlemen:

In accordance with the Consent Decree between Continental Carbon Company ("CCC") and the United States, the Oklahoma Department of Environmental Quality ("ODEQ"), and the State of Alabama and the Alabama Department of Environmental Management, Consent Decree, United States et al. v. Continental Carbon Co., Case 5:15-cv-00290-F (W.D. Okla. May 7, 2015), as amended First Amendment to Consent Decree (May 25, 2018) ("Decree"), including

Section XV and Paragraph 71 of the Decree, this letter follows up on our April 28, 2020 written notice of a force majeure event and potential noncompliance with obligations under the Decree as a result of the COVID-19 global pandemic and other issues and provides additional information as requested in the U.S. EPA's letter of May 14, 2020. Like the April 28 notice, this letter shall be handled as Confidential Business Information under federal and state law.

## Ponca City

- 1. Provide an update when any of Defendant's employees begin working onsite, including the number of employees and a description of the activities they perform.
  - <u>NO CHANGE</u>: CCC's Ponca City employees are back to normal operation, subject to appropriate COVID-19 protocols to maintain a safe working environment.
- 2. Provide any updates received from Defendant's contractors related to COVID-19.

<u>UPDATED:</u> CCC has implemented a protocol to allow visitors onsite and maintain a safe working environment, including use of masks, sanitation, and social distancing.

As requested by EPA, a separate letter will be distributed outlining these specific issues in greater detail.

3. Provide any updates, orders, or directives from state and local officials related to COVID-19.

<u>UPDATED</u>: The governmental updates are a matter of public record, but we note for EPA that in general. The State of Oklahoma withdrew and rescinded the COVID-19 State of Emergency effective May 4<sup>th</sup>.

https://www.governor.ok.gov/newsroom

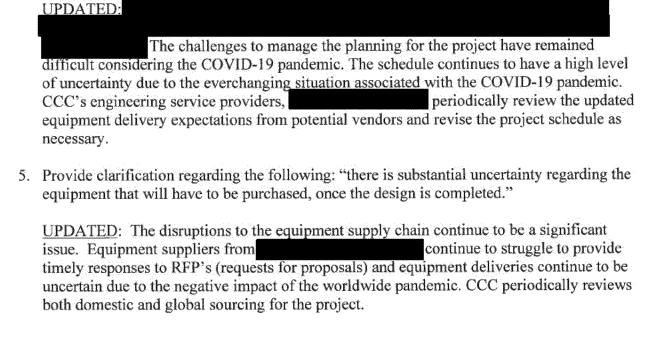
https://www.governor.ok.gov/articles/press\_releases/governor-stitt-withdraws-covid-19-state-of-emergen

4. Provide a detailed construction schedule, reflective of the anticipated schedule, broken out by month, that specifies the work being performed, the number of contractors expected to be on site (noting the name of the company), the anticipated date of arrival of major parts, and any other relevant information.

# <u>UPDATED</u>: As requested by EPA, a separate letter will be distributed outlining these specific issues in greater detail.

### **Phenix City**

- 1. Provide an update when any of Defendant's employees begin working onsite, including the number of employees and a description of the activities they perform.
  - <u>NO CHANGE:</u> CCC's Phenix City employees are back to normal operation, subject to appropriate COVID-19 protocols to maintain a safe working environment.
- 2. Provide any updates received from Defendant's contractors related to COVID-19.
  - <u>UPDATED</u>: CCC has implemented a protocol to allow visitors onsite and maintain a safe working environment, including use of masks, sanitation, and social distancing.
- 3. Provide any updates, orders, or directives from state and local officials related to COVID-19.
  - <u>NO CHANGE</u>: The governmental updates are a matter of public record. Alabama has developed a color-coded risk system to guide reopening. Phenix City is located in Russell County, which is currently designated as "Low Risk": https://www.alabamapublichealth.gov/covid19/guidance.html
- 4. Provide a detailed construction schedule, reflective of the anticipated schedule as of March 1, 2020, broken out by month), that specifies the work being performed, the number of contractors expected to be on site. (noting the name of the company), the anticipated date of arrival of major parts, and any other relevant information.



If you have any questions, please contact me at (281) 647-3841 or <a href="mailto:dhetu@continentalcarbon.com">dhetu@continentalcarbon.com</a>.

Sincerely,

Dennis Hetu

President, Continental Carbon Company

cc: Sam Boxerman, Sidley Austin (by email)

Jason Dunn, DOJ (by email)

Gregory Fried, EPA (by email)

Patrick Foley, EPA (by email)

Kellie Ortega, EPA (by email)

Christopher Williams, EPA (by email)

Carlos Evans, EPA (by email)

Emad Shahin, EPA (by email)

Sydnee Adams, EPA (by email)

Michiko Kono, EPA (by email)